1 HONORABLE BENJAMIN H. SETTLE 2 3 4 5 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 6 AT TACOMA 7 HP TUNERS, LLC, a Nevada limited liability) CASE NO. 3:17-ev-05760-BHS company, 8 Plaintiff, THIRD DECLARATION OF KEITH 9 PROCIUK IN OPPOSITION TO DEFENDANTS' EMERGENCY 10 VS. MOTION FOR TEMPORARY **RESTRAINING ORDER** 11 and SYKED) KEVIN SYKES-BONNETT **ECU TUNING** INCORPORATED,) 12 Washington corporation, and JOHN) MARTINSON, 13 Defendants. 14 15 16 I, KEITH PROCIUK, pursuant to 28 U.S.C. § 1746, being duly sworn according to law, 17 hereby state and declare as follows: 18 1. My name is Keith Prociuk. I am an individual over the age of 18 years. I have 19 personal knowledge of the matters set forth in my declaration and would be willing and able to 20 testify thereto if and when called upon to do so. 21 2. I am an owner of HP TUNERS, LLC. 22 3. HPT has destroyed all, and does not possess any, copies of any of Defendants' 23 hardware design documents or binary files. 24 25

- 4. No one at HPT possesses any copies of any of Defendants' hardware design documents or binary files.
- 5. In connection with the business of HPT, HPT has not used, accessed, referenced or misappropriated the "binary files" or the "two hardware design documents" in any manner or regard whatsoever.
- 6. HPT does not possess any confidential and proprietary information relating to Defendants' software or hardware products.
- 7. No one at HPT possesses any confidential and proprietary information relating to Defendants' software or hardware products.

I hereby declare, under penalty of perjury, that all of the foregoing is true and accurate to the best of my knowledge and belief.

Dated: August 24, 2018

Keth Procink

KEITH PROCIUK